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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/786,878 | 02/25/2004 | Jeffrey Raynor | 02ED143352632 | 1909 |
| 27975 | 7590 | 04/22/2005 | EXAMINER | |
| ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A. 1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE P.O. BOX 3791 ORLANDO, FL 32802-3791 | | | LOUIE, WAI SING | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2814 | |

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/786,878 | Applicant(s) RAYNOR, JEFFREY | |
| | Examiner Wai-Sing Louie | Art Unit 2814 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-35 is/are pending in the application.
- 4a) Of the above claim(s) 27-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>2/25/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's election of Group I, claims 11-26, in the reply filed on 4/8/05 is acknowledge. Applicant requests to reconsider the restriction requirement since search and examination of the entire application can be made without serious burden. The invention in Group I is an image sensing device comprises a photodiode element and a transistor formed on a common substrate and the invention in Group II is a method for making the device. The inventions of Group I and II are distinct and required search in different classes. Therefore, the restriction is proper and the restriction is final. It is suggested that non-elected claims 27-35 be canceled in the response to this Office Action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 11-18 and 20-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Rhodes (US 6,661,047).

With regard to claim 11, Rhodes discloses a CMOS imager (col. 6, line 13 to col. 10, line 60 and fig. 8) comprising:

- a pixel cell 100 within a pixel array 200 (fig. 2 and fig. 8);
 - a layer 160 of a first conductivity type (col. 7, lines 30-35 and fig. 8);
 - a well 26 of a second conductivity type in the layer 160, the well 26 defining a collection node (a photosite in col. 9, lines 15-25 and fig. 8);
 - an isolation trench 114 at least partially bounding an upper portion of the well (col. 8, lines 7-17).

With regard to claims 12 and 21, Rhodes discloses the isolation trench 114 completely bounds the upper portion of the well (fig. 8).

With regard to claims 13 and 22, Rhodes discloses the isolation trench 114 comprises a STI (col. 8, lines 7-17).

With regard to claim 14, Rhodes discloses the well 26 comprises an n-well (col. 9, lines 15-25).

With regard to claims 15-16 and 23, Rhodes discloses the layer 160 comprises a p-type epitaxial layer and a p-well 20 (col. 7, lines 30-35 and fig. 8).

With regard to claims 17 and 24, Rhodes discloses at least one photodiode 26 is substantially defined by the isolation trench 114 (col. 9, lines 15-25).

With regard to claims 18 and 25, Rhodes discloses a pn junction is formed at an interface between the isolation trench 114, p-well 20, and the n-well 26 (fig. 8).

With regard to claim 20, in addition to the limitations disclosed in claim 11, Rhodes also discloses:

- a semiconductor substrate 16 (col. 6, lines 47-60).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhodes (US 6,661,047).

With regard to claims 19 and 26, Rhodes does not disclose the width of the photodiode is less than or equal to 10 micrometers. The width is considered to involve routine optimization, which has been held to be within the level of ordinary skill in the art. As noted in *In re Aller*, the selection of reaction parameters such as temperature, thickness, and width etc. would have been obvious:

“Normally, it is to be expected that a change in temperature, or in thickness, or in time, would be an unpatentable modification. Under some circumstances, however, changes such as these may impart patentability to a process if the particular ranges claimed produce a new and unexpected result which is different in kind and not merely degree from the results of the prior art...such ranges are termed “critical ranges and the applicant has the burden of proving such criticality.... More particularly, where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.”

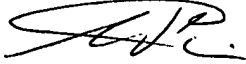
In re Aller 105 USPQ233, 255 (CCPA 1955). See also *In re Waite* 77 USPQ 586 (CCPA 1948); *In re Scherl* 70 USPQ 204 (CCPA 1946); *In re Irmischer* 66 USPQ 314 (CCPA 1945); *In re Norman* 66 USPQ 308 (CCPA 1945); *In re Swenson* 56 USPQ 372 (CCPA 1942); *In re Sola* 25 USPQ 433 (CCPA 1935); *In re Dreyfus* 24 USPQ 52 (CCPA 1934).

Therefore, one of ordinary skill in the requisite art at the time the invention was made would have used any width suitable to the method of the process in order to optimize the design.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wai-Sing Louie whose telephone number is (571) 272-1709. The examiner can normally be reached on 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael Fahmy can be reached on (571) 272-1705. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wsl 
April 20, 2005.